

House File 499 - Enrolled

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HOUSE FILE 499

AN ACT

RELATING TO VARIOUS MATTERS UNDER THE PURVIEW OF THE INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE INCLUDING WORKERS' COMPENSATION SELF=INSURANCE, PREMIUM TAXES, THE UNIFORM SECURITIES ACT, POWERS AND DUTIES OF THE INSURANCE DIVISION, REGULATION OF INSURANCE SALES TO MILITARY PERSONNEL, DOMESTIC INSURANCE COMPANIES, LIFE INSURANCE COMPANIES, NONPROFIT HEALTH SERVICE CORPORATIONS, EXTERNAL REVIEW OF HEALTH CARE COVERAGE DECISIONS, INVESTMENT LIMITATIONS ON INSURERS OTHER THAN LIFE INSURERS, PROPERTY AND CASUALTY INSURERS' RESERVES, MOTOR VEHICLE SERVICE CONTRACTS, COUNTY AND STATE MUTUAL ASSOCIATIONS, RECIPROCAL OR INTERINSURANCE CONTRACTS, PROTECTED CELL COMPANIES, LICENSING OF INSURANCE PRODUCERS AND PUBLIC ADJUSTERS, AND LIFE AND FIRE INSURANCE COMPANY BOARDS OF DIRECTORS, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 87.11, Code 2007, is amended to read as follows:

87.11 RELIEF FROM INSURANCE == PROCEDURES UPON EMPLOYER'S INSOLVENCY.

1. a. When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer's solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with the insurance commissioner security satisfactory to the insurance commissioner as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, furnish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner. Such security shall be held in trust for the sole purpose of paying compensation and benefits and is not subject to attachment, levy, execution, garnishment, liens, or any other form of encumbrance. However, the insurance commissioner shall be reimbursed from the security for all costs and fees incurred by the insurance commissioner in resolving disputes involving the security. A political subdivision, including a city, county, community college, or school corporation, that is self-insured for workers' compensation is not required to submit a plan or program to the insurance commissioner for review and approval.

b. If an approved self-insured employer discontinues its self-insured status or enters bankruptcy proceedings, the self-insured employer or its successor in interest, may petition the commissioner of insurance for release of its security. The commissioner shall release the security upon a finding of both of the following:

(1) The employer has not been self-insured pursuant to this chapter for at least four years.

(2) Ten years have elapsed from the date of the last open claim, claim activity, or claim payment involving the self-insured employer or its successor in interest, whichever is later.

c. The commissioner shall release the security upon a finding that a self-insured employer presents acceptable replacement security.

2. An employer seeking relief from the insurance requirements of this chapter shall pay to the insurance division of the department of commerce the following fees:

1- a. A fee of one hundred dollars, to be submitted annually along with an application for relief.

2- b. A fee of one hundred dollars for issuance of the certificate relieving the employer from the insurance requirements of this chapter.

3- c. A fee of fifty dollars, to be submitted with each filing required by the commissioner of insurance, including but not limited to the annual and quarterly financial

3 4 statements, and material change statements.

3 5 3. a. If an employer becomes insolvent and a debtor under
3 6 11 U.S.C., on or after January 1, 1990, ~~this paragraph~~

~~3 7 applies. The~~ the commissioner of insurance may request of the
3 8 workers' compensation commissioner that all future payments of
3 9 workers' compensation weekly benefits, medical expenses, or
3 10 other payments pursuant to chapter 85, 85A, 85B, 86, or 87, be
3 11 commuted to a present lump sum. The workers' compensation
3 12 commissioner shall fix the lump sum of probable future medical
3 13 expenses and weekly compensation benefits, or other benefits
3 14 payable pursuant to chapter 85, 85A, 85B, 86, or 87,
3 15 capitalized at their present value upon the basis of interest
3 16 at the rate provided in section 535.3 for court judgments and
3 17 decrees. The commissioner of insurance shall be discharged
3 18 from all further liability for the commuted workers'
3 19 compensation claim upon payment of the present lump sum to
3 20 either the claimant, or a licensed insurer for purchase of an
3 21 annuity or other periodic payment plan for the benefit of the
3 22 claimant.

3 23 b. The commissioner of insurance shall not be required to
3 24 pay more for all claims of an insolvent self-insured employer
3 25 than is available for payment of such claims from the security
3 26 given under this section.

3 27 4. Notwithstanding contrary provisions of section 85.45,
3 28 any future payment of medical expenses, weekly compensation
3 29 benefits, or other payments by the commissioner of insurance
3 30 from the security given under this section, pursuant to
3 31 chapter 85, 85A, 85B, 86, or 87, shall be deemed an undue
3 32 expense, hardship, or inconvenience upon the employer for
3 33 purposes of a full commutation pursuant to section 85.45,
3 34 subsection 2.

3 35 5. Financial statements provided to the commissioner of
4 1 insurance pursuant to this section may be held as
4 2 confidential, proprietary trade secrets, pursuant to section
4 3 22.7, subsection 3, upon the request of the employer, subject
4 4 to rules adopted by the commissioner of insurance, and are not
4 5 subject to disclosure or examination under chapter 22.

4 6 Sec. 2. Section 432.1, subsection 3, Code 2007, is amended
4 7 to read as follows:

4 8 3. The applicable percent, as provided in subsection 4, of
4 9 the gross amount of premiums written, and assessments, and
4 10 fees received during the preceding calendar year by every
4 11 company or association other than life on contracts of
4 12 insurance other than life for business done in this state,
4 13 including all insurance upon property situated in this state,
4 14 after deducting the amounts returned upon canceled policies,
4 15 certificates, and rejected applications but not including the
4 16 gross premiums written, and assessments, and fees received in
4 17 connection with ocean marine insurance authorized in section
4 18 515.48.

4 19 Sec. 3. Section 502.602, subsection 3, unnumbered
4 20 paragraph 1, Code 2007, is amended to read as follows:

4 21 If a person does not appear or refuses to testify, file a
4 22 statement, produce records, or otherwise does not obey a
4 23 subpoena as required by the administrator under this chapter,
4 24 the administrator may apply to the Polk county district court
4 25 or the district court for the county in which the person
4 26 resides or is located or a court of another state to enforce
4 27 compliance. The court may do any of the following:

4 28 Sec. 4. Section 502.603, subsection 1, Code 2007, is
4 29 amended to read as follows:

4 30 1. CIVIL ACTION INSTITUTED BY ADMINISTRATOR. If the
4 31 administrator believes that a person has engaged, is engaging,
4 32 or is about to engage in an act, practice, or course of
4 33 business constituting a violation of this chapter or a rule
4 34 adopted or order issued under this chapter or that a person
4 35 has, is, or is about to engage in an act, practice, or course
5 1 of business that materially aids a violation of this chapter
5 2 or a rule adopted or order issued under this chapter, the
5 3 administrator may maintain an action in the ~~district court~~
5 4 county in which the person against whom the action is being
5 5 brought resides, has a principal place of business, or is
5 6 doing business, or in the county where the transaction or any
5 7 substantial portion of the transaction which is the subject of
5 8 the action occurred, or in the county in which one or more of
5 9 the victims of the transaction which is the subject of the
5 10 action resides, to enjoin the act, practice, or course of
5 11 business and to enforce compliance with this chapter or a rule
5 12 adopted or order issued under this chapter.

5 13 Sec. 5. Section 502.604, subsections 2 and 7, Code 2007,
5 14 are amended to read as follows:

5 15 2. SUMMARY PROCESS. An order under subsection 1 is
5 16 effective on the date of issuance. Upon issuance of the
5 17 order, the administrator shall promptly serve each person
5 18 subject to the order with a copy of the order and a notice
5 19 that the order has been entered. The order must include a
5 20 statement of any civil penalty or costs of investigation the
5 21 administrator will seek, a statement of the reasons for the
5 22 order, and notice that, within ~~fifteen~~ thirty days after
5 23 receipt of a request in a record from the person, the matter
5 24 will be scheduled for a hearing. If a person subject to the
5 25 order does not request a hearing and none is ordered by the
5 26 administrator within thirty days after the date of service of
5 27 the order, the order, including the imposition of a civil
5 28 penalty or requirement for payment of costs of investigation
5 29 sought in the order, becomes final as to that person by
5 30 operation of law. If a hearing is requested or ordered, the
5 31 administrator, after notice of and opportunity for hearing to
5 32 each person subject to the order, may modify or vacate the
5 33 order or extend it until final determination.

5 34 7. ENFORCEMENT BY COURT == FURTHER CIVIL PENALTY. If a
5 35 person does not comply with an order under this section, the
6 1 administrator may petition ~~a the Polk county district court of~~
~~6 2 competent jurisdiction or the district court for the county in~~
~~6 3 which the person resides or is located to enforce the order.~~

6 4 The court shall not require the administrator to post a bond
6 5 in an action or proceeding under this section. If the court
6 6 finds, after service and opportunity for hearing, that the
6 7 person was not in compliance with the order, the court may
6 8 adjudge the person in civil contempt of the order. The court
6 9 may impose a further civil penalty against the person for
6 10 contempt in an amount not less than three thousand dollars but
6 11 not greater than ten thousand dollars for each violation and
6 12 may grant any other relief the court determines is just and
6 13 proper in the circumstances.

6 14 Sec. 6. Section 505.8, Code 2007, is amended by adding the
6 15 following new subsections:

6 16 NEW SUBSECTION. 8. The commissioner may do any of the
6 17 following:

6 18 a. Conduct public or private investigations within or
6 19 outside of this state which the commissioner deems necessary
6 20 or appropriate to determine whether a person has violated, is
6 21 violating, or is about to violate a provision of any chapter
6 22 of this subtitle or a rule adopted or order issued under any
6 23 chapter of this subtitle, or to aid in the enforcement of any
6 24 chapter of this subtitle or in the adoption of rules and forms
6 25 under any chapter of this subtitle.

6 26 b. Require or permit a person to testify, file a
6 27 statement, or produce a record under oath or otherwise as the
6 28 commissioner determines, concerning facts and circumstances
6 29 relating to a matter being investigated or about which an
6 30 action or proceeding will be instituted.

6 31 c. Notwithstanding subsection 6, publish a record
6 32 concerning an action, proceeding, or investigation under, or a
6 33 violation of, any chapter of this subtitle or a rule adopted
6 34 or order issued under any chapter of this subtitle, if the
6 35 commissioner determines that such publication is in the public
7 1 interest and is necessary and appropriate for the protection
7 2 of the public.

7 3 NEW SUBSECTION. 9. For the purpose of an investigation
7 4 made under any chapter of this subtitle, the commissioner or
7 5 the commissioner's designee may administer oaths and
7 6 affirmations, subpoena witnesses, seek compulsory attendance,
7 7 take evidence, require the filing of statements, and require
7 8 the production of any records that the commissioner considers
7 9 relevant or material to the investigation, pursuant to rules
7 10 adopted under chapter 17A.

7 11 NEW SUBSECTION. 10. If a person does not appear or
7 12 refuses to testify, or does not file a statement or produce
7 13 records, or otherwise does not obey a subpoena or order issued
7 14 by the commissioner under any chapter of this subtitle, the
7 15 commissioner may, in addition to assessing the penalties
7 16 contained in sections 505.7A, 507B.6A, 507B.7, 522B.11, and
7 17 522B.17, make application to a district court of this state or
7 18 another state to enforce compliance with the subpoena or
7 19 order. A court to whom application is made to enforce
7 20 compliance with a subpoena or order pursuant to this subtitle
7 21 may do any of the following:

7 22 a. Hold the person in contempt.

7 23 b. Order the person to appear before the commissioner.

7 24 c. Order the person to testify about the matter under
7 25 investigation.

7 26 d. Order the production of records.
7 27 e. Grant injunctive relief, including restricting or
7 28 prohibiting the offer or sale of insurance or insurance
7 29 advice.
7 30 f. Impose a civil penalty as set forth in section 505.7A.
7 31 g. Grant any other necessary or appropriate relief.
7 32 NEW SUBSECTION. 11. This section shall not be construed
7 33 to prohibit a person from applying to a district court of this
7 34 state or another state for relief from a subpoena or order
7 35 issued by the commissioner under any chapter of this subtitle.
8 1 NEW SUBSECTION. 12. An individual shall not be relieved
8 2 of an order to appear, testify, file a statement, produce a
8 3 record or other evidence, or obey a subpoena or other order of
8 4 the commissioner made under any chapter of this subtitle on
8 5 the grounds that fulfillment of the requirement may, directly
8 6 or indirectly, tend to incriminate the individual or subject
8 7 the individual to a criminal fine, penalty, or forfeiture. If
8 8 an individual refuses to obey a subpoena or order by asserting
8 9 that individual's privilege against self-incrimination, the
8 10 commissioner may apply to the district court to compel the
8 11 individual to obey the subpoena or order of the commissioner.
8 12 Testimony, records, or other evidence that is compelled by a
8 13 court enforcing an order of the commissioner shall not be
8 14 used, directly or indirectly, against that individual in a
8 15 criminal case, except in a prosecution for perjury or contempt
8 16 or for otherwise failing to comply with the order.
8 17 NEW SUBSECTION. 13. Upon request of the insurance
8 18 regulator of another state or foreign jurisdiction, the
8 19 commissioner may provide assistance in conducting an
8 20 investigation to determine whether a person has violated, is
8 21 violating, or is about to violate an insurance law or rule of
8 22 the other state or foreign jurisdiction administered or
8 23 enforced by that insurance regulator. The commissioner may
8 24 provide such assistance pursuant to the powers conferred under
8 25 this section as the commissioner determines is necessary or
8 26 appropriate under the circumstances. Such assistance may be
8 27 provided regardless of whether the conduct being investigated
8 28 would constitute a violation of this subtitle or any other law
8 29 of this state if the conduct occurred in this state. In
8 30 determining whether to provide such assistance the
8 31 commissioner may consider whether the insurance regulator
8 32 requesting the assistance is permitted to and has agreed to
8 33 reciprocate in providing assistance to the commissioner upon
8 34 request, whether compliance with the request would violate or
8 35 prejudice the public policy of this state, and the
9 1 availability of division commissioner resources and employees
9 2 to provide such assistance.
9 3 Sec. 7. NEW SECTION. 505.27A SALE OF LIFE INSURANCE TO
9 4 MILITARY PERSONNEL.
9 5 Notwithstanding any other provision of this title, the
9 6 commissioner of insurance shall have the authority to adopt
9 7 such rules related to the sale of life insurance, other than
9 8 the servicemembers' group life insurance program under 38
9 9 U.S.C. pt. II, ch. 19, subc. III, as may be necessary to
9 10 protect military personnel located either on a United States
9 11 military installation or elsewhere in this state and to carry
9 12 out the provisions of this title.
9 13 Sec. 8. NEW SECTION. 506.13 NEW OFFICERS OR DIRECTORS ==
9 14 BIOGRAPHICAL AFFIDAVIT REQUIRED.
9 15 Within thirty days after a quarterly or annual statement of
9 16 an insurance company domiciled in this state first names an
9 17 individual as an officer or director of the company on the
9 18 jurat page of the quarterly or annual statement, the new
9 19 officer or director shall file a biographical affidavit with
9 20 the commissioner. The affidavit shall be prepared on the
9 21 current template for biographical affidavits prescribed by the
9 22 national association of insurance commissioners.
9 23 Sec. 9. Section 508.10, Code 2007, is amended to read as
9 24 follows:
9 25 508.10 FOREIGN COMPANIES == CAPITAL OR SURPLUS ==
9 26 INVESTMENTS.
9 27 1. ~~No A~~ A company incorporated by or organized under the
9 28 laws of any other state or government shall not transact
9 29 business in this state unless it is possessed of the actual
9 30 amount of capital and surplus required of any company
9 31 organized by the laws of this state, or, if it be a mutual
9 32 company, of surplus equal in amount thereto, ~~and the same is~~
~~9 33 invested in bonds of the United States or of this state, or in~~
~~9 34 interest-paying bonds, when they are at or above par, of the~~
~~9 35 state in which the company is located, or of some other state,~~
~~10 1 or in notes or bonds secured by mortgages on unencumbered real~~

~~10 2 estate within this or the state where such company is located,~~
~~10 3 worth one and one-third times the amount loaned thereon, which~~
~~10 4 securities shall, at the time, be on deposit with the~~
~~10 5 commissioner of insurance, auditor, director of revenue, or~~
~~10 6 chief financial officer of the state by whose laws the company~~
~~10 7 is incorporated, or of some other state, and the commissioner~~
~~10 8 of insurance is furnished with a certificate of such officer,~~
~~10 9 under the officer's official seal, that the person as such~~
~~10 10 officer holds in trust and on deposit for the benefit of all~~
~~10 11 the policyholders of such company, the securities above~~
~~10 12 mentioned. This certificate shall embrace the items of~~
~~10 13 security so held, and show that such officer is satisfied that~~
~~10 14 such securities are worth the amount stated in the~~
~~10 15 certificate. Nothing herein contained shall invalidate the~~
~~10 16 agency of any company incorporated in another state by reason~~
~~10 17 of its having exchanged the bonds or securities so deposited~~
~~10 18 with such officer for other bonds or securities authorized by~~
~~10 19 this chapter, or by reason of its having drawn its interest~~
~~10 20 and dividends on the same.~~

10 21 2. An alien insurer, with the approval of the
10 22 commissioner, may be treated as a domestic insurer of this
10 23 state in whole or in part, and if so approved is deemed to be
10 24 organized under the laws of this state and is an Iowa domestic
10 25 insurer as provided by rules adopted by the commissioner. The
10 26 approval of the commissioner may be based upon such factors
10 27 as:

10 28 1- a. Maintenance of an appropriate trust account,
10 29 surplus account, or other financial mechanism in this state.

10 30 2- b. Maintenance of all books and records of United
10 31 States operations in this state.

10 32 3- c. Maintenance of a separate financial reporting
10 33 system for its United States operations.

10 34 4- d. Any other provisions deemed necessary by the
10 35 commissioner.

11 1 3. A foreign company authorized to do business in this
11 2 state shall not assumptively reinsure a block of business
11 3 which includes policyholders residing in this state to a
11 4 company not authorized to do business in this state without
11 5 the prior written approval of the commissioner.

11 6 Sec. 10. Section 514.4, unnumbered paragraph 2, Code 2007,
11 7 is amended to read as follows:

11 8 A subscriber director is a director of the board of a
11 9 corporation who is a subscriber and who is not a provider of
11 10 health care pursuant to section 514B.1, subsection 7, a person
11 11 who has material financial or fiduciary interest in the
11 12 delivery of health care services or a related industry, an
11 13 employee of an institution which provides health care
11 14 services, or a spouse or a member of the immediate family of
11 15 such a person. However, a subscriber director of a dental
11 16 service corporation may be an employee, officer, director, or
11 17 trustee of a hospital that does not contract with the dental
11 18 service corporation. A subscriber director of a hospital or
11 19 medical service corporation shall be a subscriber of the
11 20 services of that corporation.

11 21 Sec. 11. Section 514J.2, subsection 3, Code 2007, is
11 22 amended to read as follows:

11 23 3. "Coverage decision" means a final adverse decision
11 24 based on medical necessity. This definition does not include
11 25 a denial of coverage for a service or treatment specifically
11 26 listed in plan or evidence of coverage documents as excluded
11 27 from coverage, or a denial of coverage for a service or
11 28 treatment that has already been received and for which the
11 29 enrollee has no financial liability.

11 30 Sec. 12. Section 515.35, subsection 2, Code 2007, is
11 31 amended by adding the following new paragraph:

11 32 NEW PARAGRAPH. aa. "Capital and surplus", for purposes of
11 33 computing percentage limitations on particular types of
11 34 investments, means the capital and surplus that is authorized
11 35 to be shown as capital and surplus on the national association
12 1 of insurance commissioners' annual statement blank as of the
12 2 December 31 immediately preceding the date the company
12 3 acquires the investment.

12 4 Sec. 13. NEW SECTION. 515H.1 SHORT TITLE.

12 5 This chapter shall be known and may be cited as the
12 6 "Property and Casualty Actuarial Opinions Act".

12 7 Sec. 14. NEW SECTION. 515H.2 ACTUARIAL OPINION OF
12 8 RESERVES == SUPPORTING DOCUMENTATION.

12 9 1. STATEMENT OF ACTUARIAL OPINION. Every property and
12 10 casualty insurance company doing business in this state,
12 11 unless otherwise exempted from this requirement by the
12 12 commissioner, shall annually submit the opinion of an

12 13 appointed actuary entitled "statement of actuarial opinion"
12 14 with the company's annual statement in accordance with the
12 15 provisions of section 515.63 and with the requirements of the
12 16 national association of insurance commissioners' property and
12 17 casualty annual statement instructions.

12 18 2. ACTUARIAL OPINION SUMMARY.

12 19 a. Every property and casualty insurance company domiciled
12 20 in this state that is required to submit a statement of
12 21 actuarial opinion shall annually submit an actuarial opinion
12 22 summary, prepared and signed by the company's appointed
12 23 actuary. The actuarial opinion summary shall be filed in
12 24 accordance with the requirements of the national association
12 25 of insurance commissioners' property and casualty company
12 26 annual statement instructions and shall be considered a
12 27 document in support of the statement of actuarial opinion
12 28 required under subsection 1.

12 29 b. A property and casualty insurance company that is
12 30 licensed but not domiciled in this state shall provide an
12 31 actuarial opinion summary upon request of the commissioner.

12 32 3. ACTUARIAL REPORT AND WORK PAPERS.

12 33 a. An actuarial report and supporting work papers shall be
12 34 prepared to support each statement of actuarial opinion in
12 35 accordance with the requirements of the national association
13 1 of insurance commissioners' property and casualty company
13 2 annual statement instructions.

13 3 b. If an insurance company fails to provide a supporting
13 4 actuarial report and work papers as requested by the
13 5 commissioner or the commissioner determines that the actuarial
13 6 report or work papers provided are unacceptable, the
13 7 commissioner may engage a qualified actuary at the company's
13 8 expense to review the statement of actuarial opinion and the
13 9 basis for the opinion and to prepare a supporting actuarial
13 10 report or work papers.

13 11 4. An appointed actuary shall not be liable for damages to
13 12 any person, except the company and the insurance commissioner,
13 13 for any act, error, omission, decision, or misconduct of the
13 14 appointed actuary in conducting the actuary's duties pursuant
13 15 to this section except in cases of fraud or willful misconduct
13 16 on the part of the appointed actuary.

13 17 Sec. 15. NEW SECTION. 515H.3 CONFIDENTIALITY.

13 18 1. A statement of actuarial opinion filed pursuant to
13 19 section 515H.2, subsection 1, is a public record subject to
13 20 examination and copying.

13 21 2. Documents in the possession or control of the insurance
13 22 division that are provided to the division in support of a
13 23 statement of actuarial opinion, that are considered an
13 24 actuarial report, work papers, an actuarial opinion summary,
13 25 or any other material provided by the company in connection
13 26 with the actuarial report, work papers, or actuarial opinion
13 27 summary are confidential records under section 507.14 and
13 28 shall not be subject to subpoena or discovery or be admissible
13 29 in evidence in any private civil action.

13 30 3. Disclosure of any documents, materials, or information
13 31 to the division in compliance with the requirements of this
13 32 chapter shall not be considered a waiver of any applicable
13 33 privilege or claim of confidentiality.

13 34 Sec. 16. Section 516E.3, subsection 2, paragraph a, Code
13 35 2007, is amended by striking the paragraph.

14 1 Sec. 17. Section 518.14, subsection 2, Code 2007, is
14 2 amended by adding the following new paragraph:

14 3 NEW PARAGRAPH. h. "Surplus", for purposes of computing
14 4 percentage limitations on particular types of investments,
14 5 means the surplus that is authorized to be shown on the
14 6 commissioner's annual statement blank as surplus as of the
14 7 December 31 immediately preceding the date the association
14 8 acquires the investment.

14 9 Sec. 18. Section 518A.1, subsection 1, paragraph d, Code
14 10 2007, is amended to read as follows:

14 11 d. Any ~~automobile vehicle, excluding automobile or~~
14 12 ~~aircraft or other vehicle, including loss, and expense, or~~
14 13 ~~liability~~ resulting from the ownership, maintenance, or use
14 14 thereof, but shall not include insurance against bodily injury
14 15 to the person.

14 16 Sec. 19. Section 518A.12, subsection 2, Code 2007, is
14 17 amended by adding the following new paragraph:

14 18 NEW PARAGRAPH. h. "Surplus", for purposes of computing
14 19 percentage limitations on particular types of investments,
14 20 means the surplus that is authorized to be shown on the
14 21 commissioner's annual statement blank as surplus as of the
14 22 December 31 immediately preceding the date the association
14 23 acquires the investment.

14 24 Sec. 20. Section 520.9, subsection 1, Code 2007, is
14 25 amended to read as follows:

14 26 1. There shall at all times be maintained as assets a sum
14 27 in cash, or in securities of the kind designated by the laws
14 28 of the state where the principal office is located for the
14 29 investment of funds of insurance companies, equal to one
14 30 hundred percent of the net unearned premiums or deposits
14 31 collected and credited to the account of subscribers, or
14 32 assets equal to fifty percent of the net annual deposits
14 33 collected and credited to the account of subscribers on
14 34 policies having one year or less to run and pro rata on those
14 35 for longer periods; in addition to which there shall be
15 1 maintained in cash, or in such securities, assets sufficient
15 2 to discharge all liabilities on all outstanding losses arising
15 3 under policies issued, the same to be calculated in accordance
15 4 with the laws of the state relating to similar reserves for
15 5 companies insuring similar risks; provided that where the
15 6 assets on hand available for the payment of losses other than
15 7 determined losses, do not equal ~~two five~~ million dollars, all
15 8 liability for each determined loss or claim deferred for more
15 9 than one year, shall be provided for by a special deposit in a
15 10 trust company or bank having fiduciary powers of the state in
15 11 which the principal office is located, to be used in payment
15 12 of compensation benefits for disability; such deposit to be a
15 13 trust fund and applicable only to the purposes stated, or such
15 14 liability may be reinsured in authorized companies with a
15 15 surplus of at least ~~two five~~ million dollars. For the purpose
15 16 of such reserves, net deposits shall be construed to mean the
15 17 advance payments of subscribers after deducting the amount
15 18 specifically provided in the subscribers' agreements for
15 19 expenses. If at any time the assets so held in cash or such
15 20 securities shall be less than required above, or less than ~~two~~
15 21 five million dollars, the subscribers or their attorney for
15 22 them shall make up the deficiency within thirty days after
15 23 notice from the commissioner of insurance to do so. In
15 24 computing the assets required by this section, the amount
15 25 specified in section 520.4, subsection 7, shall be included.

15 26 Sec. 21. Section 521.2, subsection 4, Code 2007, is
15 27 amended to read as follows:

15 28 4. A domestic ~~mutual~~ insurance company shall not assume or
15 29 reinsure the whole or any part of the risks of any other
15 30 company, except as provided in this chapter. However, this
15 31 chapter shall not be construed to prevent any company, as
15 32 defined in section 521.1, from reinsuring a fractional part of
15 33 any risk.

15 34 Sec. 22. Section 521G.6, subsection 6, Code 2007, is
15 35 amended to read as follows:

16 1 6. A protected cell company shall only attribute to a
16 2 protected cell account the insurance obligations relating to
16 3 the protected cell company's general account. A protected
16 4 cell ~~company~~ shall not issue an insurance or reinsurance
16 5 contract directly to a policyholder or reinsured, and shall
16 6 not have an obligation to a policyholder or reinsured of the
16 7 protected cell company's general account.

16 8 Sec. 23. Section 522B.6, subsection 3, Code 2007, is
16 9 amended to read as follows:

16 10 3. An insurance producer license remains in effect unless
16 11 revoked or suspended as long as all required fees are paid and
16 12 continuing education requirements for resident individual
16 13 insurance producers are met by any applicable due date.
16 14 Resident individual insurance producers are required to
16 15 complete continuing education requirements in order to be
16 16 eligible for license renewal unless exempted from such
16 17 requirements under this chapter or by rule.

16 18 Sec. 24. NEW SECTION. 522C.1 PURPOSE.

16 19 The purpose of this chapter is to govern the qualifications
16 20 and procedures for licensing public adjusters in this state,
16 21 and to specify the duties of and restrictions on public
16 22 adjusters, including limitation of such licensure to assisting
16 23 insureds only with first-party claims.

16 24 Sec. 25. NEW SECTION. 522C.2 DEFINITIONS.

16 25 As used in this chapter, unless the context otherwise
16 26 requires:

16 27 1. "Business entity" means a corporation, association,
16 28 partnership, limited liability company, limited liability
16 29 partnership, or any other legal entity.

16 30 2. "Commissioner" means the commissioner of insurance.

16 31 3. "Fingerprints" means an impression of the lines on a
16 32 human finger taken for the purposes of identification. The
16 33 impression may be electronic or in ink converted to an
16 34 electronic format.

16 35 4. "First=party claim" means a claim filed by a person
17 1 insured under the insurance policy against which the claim is
17 2 made.
17 3 5. "Individual" means a natural person.
17 4 6. "Person" means an individual or a business entity.
17 5 7. "Public adjuster" means any person who for compensation
17 6 or any other thing of value acts on behalf of an insured by
17 7 doing any of the following:
17 8 a. Acting for or aiding an insured in negotiating for or
17 9 effecting the settlement of a first=party claim for loss or
17 10 damage to real or personal property of the insured.
17 11 b. Advertising for employment as a public adjuster of
17 12 first=party insurance claims or otherwise soliciting business
17 13 or representing to the public that the person is a public
17 14 adjuster of first=party insurance claims for loss or damage to
17 15 real or personal property of an insured.
17 16 c. Directly or indirectly soliciting business
17 17 investigating or adjusting losses, or advising an insured
17 18 about first=party claims for loss or damage to real or
17 19 personal property of the insured.
17 20 8. "Uniform business entity application" means the current
17 21 version of the national association of insurance
17 22 commissioners' uniform business entity application for
17 23 resident and nonresident business entities.
17 24 9. "Uniform individual application" means the current
17 25 version of the national association of insurance
17 26 commissioners' uniform individual application for resident and
17 27 nonresident individuals.
17 28 Sec. 26. NEW SECTION. 522C.3 AUTHORITY OF THE
17 29 COMMISSIONER.
17 30 1. The commissioner shall adopt rules pursuant to chapter
17 31 17A as necessary to administer and enforce this chapter.
17 32 2. The commissioner shall adopt rules including but not
17 33 limited to all of the following:
17 34 a. Advertising standards.
17 35 b. Continuing education requirements for licensees.
18 1 c. Contracts between public adjusters and insureds.
18 2 d. Required disclosures by licensees.
18 3 e. Examinations for licensure.
18 4 f. Exemptions.
18 5 g. License bonds and errors and omissions insurance
18 6 requirements.
18 7 h. License requirements and exclusions.
18 8 i. Prohibited practices.
18 9 j. Record retention requirements.
18 10 k. Reporting requirements.
18 11 l. Requirements and limitations on fees charged by public
18 12 adjusters.
18 13 m. Standards for reasonableness of payment.
18 14 n. Standards of conduct.
18 15 o. Penalties.
18 16 Sec. 27. NEW SECTION. 522C.4 LICENSE REQUIRED.
18 17 A person shall not operate as or represent that the person
18 18 is a public adjuster in this state unless the person is
18 19 licensed by the commissioner in accordance with this chapter.
18 20 Sec. 28. NEW SECTION. 522C.5 APPLICATION FOR LICENSE.
18 21 1. A person applying for a public adjuster license shall
18 22 make application on a uniform individual application or
18 23 uniform business entity application as prescribed by the
18 24 commissioner pursuant to rules adopted under chapter 17A.
18 25 2. In determining eligibility for licensure under this
18 26 chapter, the commissioner shall require each individual
18 27 applying for a public adjuster license to submit a full set of
18 28 fingerprints with the application. The commissioner shall
18 29 also require each business entity applying for licensure under
18 30 this chapter to submit a full set of fingerprints for each
18 31 individual who will be acting as a public adjuster on behalf
18 32 of the business entity. The commissioner shall conduct a
18 33 state and national criminal history record check on each
18 34 applicant. The commissioner is authorized to submit
18 35 fingerprints and any required fees to the state department of
19 1 public safety, the state attorney general, and the federal
19 2 bureau of investigation for the performance of such criminal
19 3 record checks.
19 4 a. The commissioner may contract for the collection,
19 5 transmission, and resubmission of fingerprints required under
19 6 this section and may contract for a reasonable fingerprinting
19 7 fee to be charged by the contractor for these services. Any
19 8 fees for the collection, transmission, and retention of
19 9 fingerprints submitted pursuant to this subsection shall be
19 10 paid directly to the contractor by the applicant.

19 11 b. The commissioner may waive submission of fingerprints
19 12 by any person who has previously furnished fingerprints if
19 13 those fingerprints are on file with the central repository of
19 14 the national association of insurance commissioners, its
19 15 affiliates, or subsidiaries.
19 16 c. The commissioner may receive criminal history record
19 17 information concerning an applicant that was requested by the
19 18 state department of justice directly from the federal bureau
19 19 of investigation.
19 20 d. The commissioner may submit electronic fingerprint
19 21 records and necessary identifying information to the national
19 22 association of insurance commissioners, its affiliates, or
19 23 subsidiaries for permanent retention in a centralized
19 24 repository whose purpose is to provide state insurance
19 25 commissioners with access to fingerprint records in order to
19 26 perform criminal history record checks.

19 27 Sec. 29. NEW SECTION. 522C.6 PENALTIES.

19 28 1. The commissioner may place on probation, suspend,
19 29 revoke, or refuse to issue or renew a public adjuster's
19 30 license or may levy a civil penalty as provided in section
19 31 505.7A if a licensed public adjuster is found after hearing to
19 32 be in violation of the requirements of this chapter or rules
19 33 adopted or orders issued pursuant to this chapter.

19 34 2. A person acting as a public adjuster without proper
19 35 licensure or a public adjuster who willfully violates any
20 1 provision of this chapter or any rule adopted or order issued
20 2 under this chapter is guilty of a serious misdemeanor.

20 3 Sec. 30. Sections 505.26, 523.5, and 523.6, Code 2007, are
20 4 repealed.

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PATRICK J. MURPHY
Speaker of the House

JOHN P. KIBBIE
President of the Senate

MARK BRANDSGARD
Chief Clerk of the House

20 23 Approved _____, 2007

CHESTER J. CULVER
Governor